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Working Group on Children and Armed Conflict

Conclusions on children and armed conflict in Nepal

1. At its 7th meeting, on 9 February 2007, the Working Group examined a report of the Secretary-General on children and armed conflict in Nepal (S/2006/1007) introduced by his Special Representative. The Permanent Representative of Nepal to the United Nations participated in the subsequent discussion.

2. The main elements of the exchange of views among the members of the Working Group are summarized below.

3. Members welcomed the submission of the report pursuant to Security Council resolution 1612 (2005) and the recommendations contained therein.

4. Grave concern was expressed that the recruitment and use, as well as the abduction, of children by the Communist Party of Nepal (Maoist), or CPN (M), had continued even after the signing of the Comprehensive Peace Agreement by the Government of Nepal and CPN (M) on 21 November 2006.

5. Particular concern was expressed regarding the situation of the girl child, since in the most recent recruitments some 40 per cent of the new recruits appeared to be girls.

6. Measures to combat impunity were essential. In this regard, some Member States mentioned the need to bring to account those responsible for the torture and death of Maina Sunawar. The responsibility of the Government to tackle such an issue was underlined.

7. The Government of Nepal was encouraged to become party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

8. The role of the donor community was critical in supporting civil society, peace transitions and capacity-building for child reintegration programmes.

9. The commitments of the parties to the Comprehensive Peace Agreement to pay special attention to the needs of children and to release and reintegrate those associated with armed groups, as well as their cooperation with the United Nations Children's Fund (UNICEF), the United Nations Development Programme (UNDP)

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and the Office of the United Nations High Commissioner for Human Rights (OHCHR), were commended.

10. The cooperation of the Government of Nepal with the Working Group and the Office of the Special Representative, and in particular its intention to invite the Special Representative to visit Nepal in May 2007, was welcomed.

11. It was noted that the recommendations of the Working Group were expected to advance the peace process in Nepal.

12. The Permanent Representative of Nepal underlined that most of the reported violations tended to relate to the situation in Nepal before the conclusion of the Comprehensive Peace Agreement. He mentioned that his Government generally favoured recommendations to include provisions for the protection of children in all steps of the peace process, to immediately end the practice of recruiting and using children, to reintegrate the children back into their families, to free schools and hospitals from any activity that hampered the welfare of the children, to reform the juvenile justice system, to provide unimpeded access to all human rights and humanitarian personnel working for children and to increase cooperation and coordination with United Nations and other agencies for the welfare of children affected by the armed conflict in Nepal. He underlined the recent agreement between CPN (M) and the United Nations Mission in Nepal (UNMIN) that no children under the age of 18 would be registered as soldiers during the process of cantonment of CPN (M) combatants and stressed the importance of aligning the Working Group's recommendations with the peace process.

13. Members of the Working Group underlined that the case of children and armed conflict in Nepal was the first situation considered by the Working Group on the basis of annex II to the report of the Secretary-General submitted pursuant to Security Council resolution 1612 (2005) (A/61/529-S/2006/826 and Corr.1) and that addressing it appropriately would enhance the work of the Working Group.

14. Further to the meeting and consistent with applicable international law and relevant Security Council resolutions, including resolution 1612 (2005), the Working Group agreed to the following.

Recommendation to the Security Council

15. The Working Group agreed to recommend that the President of the Security Council address a letter:

To the Government of Nepal

(a) *Welcoming*:

(i) The cooperation of the Government of Nepal with the international community, in particular through the recent deposition of a binding declaration regarding the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict;

(ii) The designation of the Ministry of Women, Children and Social Welfare as the new Government focal point for all issues related to the monitoring and reporting mechanism established in Nepal pursuant to resolution 1612 (2005);

(iii) The invitation to the Special Representative to undertake a mission to Nepal;

(iv) The constitution of the Central Child Welfare Board and the designation of 31 child protection officers;

(b) *Urging* the Government of Nepal, bearing in mind the special responsibility of the newly appointed Minister of Women, Children and Social Welfare:

(i) To put an end to any form of unlawful use of children by security forces;

(ii) To provide full support to UNMIN in separating children under the age of 18 from combatants during the process of cantonment of the combatants of CPN (M) with a view to reintegrating those children into their families as a matter of priority;

(iii) To pay particular attention to the needs of girls who have been affected by the conflict, in particular those associated with armed groups, in the reintegration and rehabilitation process;

(iv) To fully respect applicable international law concerning the protection of children, including in the context of the peace process, and to fully implement relevant international treaties within the domestic legal system;

(v) To ensure in its domestic law, in accordance with applicable international law, the criminalization of the abduction, recruitment and use of children for military purposes, with a view to prosecuting the perpetrators of such actions;

(vi) To strongly consider becoming party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;

(vii) To ensure that specific provisions for children, including provisions to meet the specific needs of girls and their children, are included in the various agreements and accords reached during the course of the peace process;

(viii) To implement its recent commitments concerning the protection of children, especially its commitment to carry out a review of all juvenile justice regulations, with a view to bringing them in line with international standards and norms;

(ix) To investigate all allegations of abduction, killing and maiming, attacks on schools and hospitals, sexual violence and denial of humanitarian access, and to prosecute the perpetrators of such acts;

(x) To continue and reinforce its collaboration in this field with OHCHR in Nepal, as well as with UNICEF and UNDP;

(c) *Requesting* the Government of Nepal to urge the CPN (M) leadership to honour its commitments by conveying to it the following requests:

(i) To immediately end the practice of recruiting and using children and to separate children from their ranks, as it committed to doing upon signing the Comprehensive Peace Agreement;

(ii) To immediately engage with the United Nations country team on an action plan to ensure transparent procedures for the release of all children from the People's Liberation Army and all other CPN (M)-affiliated organizations;

(iii) To immediately cease all occupation and use of schools for political and military purposes and to free hospitals from any activity that hampers the welfare of children;

(iv) To provide humanitarian actors with unimpeded access to all areas;

(v) To fully cooperate with UNICEF and OHCHR with a view to putting an end to the serious abuses perpetrated against children;

To the Secretary-General

(d) *Welcoming* the intention of the Special Representative of the Secretary-General for Children and Armed Conflict to visit Nepal to help draw attention to and highlight the need to mainstream child protection issues into the transition and post-transition priorities of the Government of Nepal and its United Nations and civil society partners, reaffirming the need to pay special attention to the needs of children in the peace process, as recognized in Security Council resolution 1740 (2007), including the specific needs of girls, and the need to continue to do so in any further discussion in the follow-up to that resolution, if appropriate;

(e) *Welcoming* the early involvement of UNICEF in the reintegration and rehabilitation process.

Direct action by the Working Group

16. The Working Group also agreed to address letters from its Chairman:

To the World Bank and donors

(a) *Requesting*:

(i) That the World Bank and donors ensure that sufficient resources are made available to support programmes for the release, return and reintegration of the children associated with armed groups into their communities, with due consideration of the longer-term requirements of such programmes for children;

(ii) That they support the Government of Nepal and, in consultation with it, civil society, in their projects to implement peace transition programmes;

(iii) That they provide all necessary support for the reinforcement of the monitoring and reporting of the task force in collecting adequate and reliable information on the impact of violations against children in this new phase of peacebuilding in Nepal;

To the United Nations Children's Fund

(b) *Commending* the efforts of UNICEF in the follow-up of resolution 1612 (2005) and other decisions on children and armed conflict in the course of the peace process, as well as its démarches to the parties, and requesting continued dialogue with all stakeholders to ensure that the commitments of the parties to the

Comprehensive Peace Agreement concerning the protection of children are carried out;

To the Office of the United Nations High Commissioner for Human Rights

(c) *Commending* the efforts of OHCHR in the follow-up of resolution 1612 (2005) and other decisions on children and armed conflict in the course of the peace process, as well as its efforts to establish dialogue with CPN (M), and requesting continued dialogue with all stakeholders to ensure that the commitments of the parties of the Comprehensive Peace Agreement for the protection of children are carried out;

To the United Nations Development Programme

(d) *Commending* the efforts of UNDP in the follow-up of resolution 1612 (2005) and other decisions on children and armed conflict, and requesting, in close consultation with UNICEF, continued dialogue and work with the parties to the Comprehensive Peace Agreement to carry out the release of children from the CPN (M) cantonment sites with a view to reintegrating the underage combatants in their communities.

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Working Group on Children and Armed Conflict

Conclusions on children and armed conflict in Sri Lanka

1. At its 7th meeting, on 9 February 2007, the Working Group examined a report of the Secretary-General on children and armed conflict in Sri Lanka (S/2006/1006) introduced by his Special Representative. The Special Adviser to the Special Representative briefed the Working Group on his recent visit to Sri Lanka. The Permanent Representative of Sri Lanka to the United Nations participated in the subsequent discussion.

2. The main elements of the exchange of views among the members of the Working Group are summarized below.

3. Members welcomed the submission of the report pursuant to Security Council resolution 1612 (2005) and stressed the need to consider the recommendations contained therein in accordance with the Working Group's own mandate.

4. The Government of Sri Lanka was commended for its cooperation with the Working Group.

5. Grave concern was expressed about the fact that the continuous pattern of abduction, recruitment and use of children by the Liberation Tigers of Tamil Eelam (LTTE), as reported, inter alia, in the successive reports of the Secretary-General on children and armed conflict, was going on despite previous commitments made by LTTE in March 2003 under the action plan for children affected by war. Despite the commitment by LTTE to release all children within its ranks, only a few children had been released to date. Besides, the pattern of abduction, recruitment and use of children had increased over the recent period. Today LTTE remains the main party responsible for serious violations against children in armed conflict in Sri Lanka.

6. Grave concern was also expressed about the development of a recent but increasing pattern of abduction and recruitment of children in the eastern region by the Karuna faction.

7. Concern was expressed about the fact that the Karuna faction had abducted children in areas considered to be Government controlled, raising questions about the complicity of certain elements of the security forces. In that regard, the Government's responsibility for bringing an end to impunity was highlighted, and the Government was encouraged to proceed, in conformity with its commitments, with its investigation of certain elements of the security forces regarding allegations of participation in child abduction.

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8. The Permanent Representative of Sri Lanka to the United Nations reiterated the commitment of his Government to cooperate fully with the international community and the Working Group with a view to putting an end to violations and abuses against children in armed conflict. The Government of Sri Lanka reaffirmed its policy of zero tolerance for the recruitment and use of children in armed conflict. According to the report of the Secretary-General, LTTE was the main party responsible for serious violations and abuses against children in armed conflict, such as the unlawful recruitment, use and abduction of such children. The Permanent Representative reiterated the views of his Government on the implementation of the recommendations of the Secretary-General as set out in his aide-memoire to the Chairman of the Working Group. While questioning the reliability of sources, the Permanent Representative indicated that the Government of Sri Lanka would take the action necessary to investigate the allegations made against elements of its security forces regarding the recruitment and abduction of children by the Karuna faction. He also indicated that the Government was fully committed to the rehabilitation and reintegration of child combatants who escape from armed groups, and had introduced a new legal regime in that regard.

9. Further to the meeting and consistent with applicable international law and relevant Security Council resolutions, including resolution 1612 (2005), the Working Group agreed to the following.

Public statements by the Chairman on behalf of the Working Group

10. The Working Group agreed to address messages to parties to the conflict through public statements by its Chairman on behalf of the Working Group:

To the leadership of the Liberation Tigers of Tamil Eelam

(a) *Calling the attention* of the leadership of the Liberation Tigers of Tamil Eelam to the fact that the Security Council has received a report of the Secretary-General, dated 20 December 2006, on children and armed conflict in Sri Lanka (S/2006/1006), in which he described, inter alia, a continuous, ongoing and even increasing pattern of abduction, recruitment and use of children by LTTE, despite previous commitments made under the action plan for children affected by war in March 2003;

(b) *Strongly condemning* the continuous recruitment and use of child soldiers and all other violations and abuses committed against children by LTTE;

(c) *Urging* the leadership of LTTE:

(i) To immediately end the practice of abduction, recruitment and use of children under the age of 18 and to separate them from its ranks, in conformity with its obligations under the action plan;

(ii) To immediately engage in transparent procedures with the United Nations Children's Fund (UNICEF) for the release and verification of the demobilization of all children;

(iii) To immediately cease the transfer of demobilized children to the Educational Skills Development Centre and instead release them directly to their families, as stipulated in the action plan;

(iv) To cooperate with UNICEF by sharing information and providing UNICEF representatives with unimpeded access to LTTE military camps with a view to putting an end to violations and abuses perpetrated against children;

(v) To recognize and commit to maintaining the neutrality and security of schools, hospitals and religious institutions as safe zones in conflict-affected areas;

(vi) To immediately provide humanitarian actors with unimpeded and safe access to all areas under its control;

(d) *Emphasizing* that:

(i) If in the coming months reporting by the Secretary-General on the follow-up by LTTE to the message indicates significant progress, the Working Group will look for continued progress in the framework of the next regular report on children and armed conflict in Sri Lanka;

(ii) If, however, LTTE does not respond positively to the message in the coming months or does not carry out its commitments or abide by its obligations in accordance with applicable international law and relevant Security Council resolutions, including resolution 1612 (2005), further steps may be taken;

To the leadership of the Tamil Makkal Viduthalai Puligal and its military wing, the Karuna faction

(e) *Strongly condemning* the recent recruitment and use of child soldiers and all other violations and abuses committed against children by the Karuna faction;

(f) *Urging* the Karuna faction:

(i) To immediately end the practice of abduction, use and recruitment of children under the age of 18, consistent with the commitment it made to the Special Representative and her Special Adviser;

(ii) To engage with UNICEF, as a matter of priority, to release all children among its ranks, ensure a transparent verification process, including access to Karuna faction military camps, devise age-verification procedures with UNICEF and prevent further unlawful recruitment;

(iii) To recognize and commit to maintaining the neutrality and security of schools, hospitals and religious institutions as safe zones in conflict-affected areas;

(iv) To immediately provide humanitarian actors with unimpeded and safe access to all areas under its control.

Recommendation to the Security Council

11. The Working Group agreed to recommend that the President of the Security Council address a letter to the Secretary-General requesting that the Secretary-General report to the Council on children and armed conflict in Sri Lanka by 31 October 2007, paying particular attention to the follow-up by the parties to the messages addressed to them by the Chairman of the Working Group.

Letters from the Chairman of the Working Group

12. The Working Group agreed to address letters from its Chairman:

To the Government of Sri Lanka

(a) *Welcoming*:

(i) The early decision of the Government of Sri Lanka to volunteer for the implementation of a monitoring and reporting mechanism on children and armed conflict in Sri Lanka and its subsequent and ongoing cooperation with the Working Group;

(ii) The recent participation of the Government of Sri Lanka in the conference entitled "Free Children from War", held in Paris in February 2007;

(iii) The commitment of the Government of Sri Lanka to enforce a policy of zero tolerance for the recruitment and use of children in armed conflict and, in that context, its commitment to investigate the allegations made against elements of its security forces;

(b) *Urging* the Government of Sri Lanka:

(i) To give full support to the monitoring and reporting mechanism established pursuant to resolution 1612 (2005), including by considering a favourable response to proposals by the Office of the United Nations High Commissioner for Human Rights to include its staff in the monitoring and reporting task force;

(ii) To put into practice as a matter of priority its commitment to lead a thorough and impartial investigation into allegations that certain elements of the Sri Lankan security forces are involved in aiding the unlawful recruitment and abduction of children by the Karuna faction, while ensuring that during this process complainants and witnesses are protected from reprisal by any party;

(iii) To require that the police and Government security forces thoroughly investigate all complaints of child abduction with a view to putting an end to impunity;

(iv) To secure the release of all children abducted by the Karuna faction and ensure their return to their families;

(v) To recognize and commit to maintaining the neutrality and security of schools, hospitals and religious institutions as safe zones in conflict-affected areas;

(vi) To immediately provide humanitarian actors with unimpeded and safe access to all areas under its control;

(vii) To ensure access, under the new legal framework it has established, to protection, rehabilitation and reintegration services for all released children, paying particular attention to the specific needs of girls;

(viii) To consider becoming a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;

To the World Bank and donors

(c) *Requesting* the support of the World Bank and donors for the work of UNICEF and other relevant agencies to strengthen the capacity of the monitoring and reporting mechanism, including by providing the funding necessary to increase the capacity of the Human Rights Commission of Sri Lanka and the National Child Protection Authority;

To the United Nations Children's Fund

(d) *Commending* the efforts of UNICEF to establish dialogue with all relevant parties and requesting that it pursue its efforts with LTTE and the Karuna faction with a view to obtaining the early implementation of action plans for the release of all children in their ranks or retained in camps or centres where they are separated from their families.